CSI NEWS

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Bye-Bye Manifest

California hazardous waste disposal documentation laws have been simplified. Now disposal of waste antifreeze, oil/water separator sludge (500 gallon per 30-day period) and parts cleaning solvent (both petroleum-based and water-based) do not require the completion of a manifest. The manifest is a six-page, multi-colored State of California document that needed to be completed for disposal of any hazardous waste unless exempted.

This is good news for automobile dealers who now need to obtain only a properly completed receipt for these wastes in lieu of a manifest. The savings to the dealership are in terms of time required to complete a manifest, mailing the blue copy to DTSC, and the time spent on locating and managing copies of manifest received from the waste disposal facility (TSDF). Further, the penalties involved with making mistakes on a manifest can be avoided. Interestingly the data from the manifest mailed to the state are entered into the computers by inmates at San Quentin! Lastly, the annual $6-12 fee for each manifest completed will be avoided. All this translates to less paperwork, less management time, and less expense to the dealership.

The properly completed receipt for waste needs information as follows:

- Volume and proper description of waste
- Generators' name, address, EPA ID number, and phone number
- Haulers name, address, and EPA ID number
- TSDF's name and address (waste disposal facility)
- State manifest number (hauler notes this number on the receipt)
- Date of shipment
- Signature of dealership representative and the driver of the waste pickup truck.

Wastes such as thinners from the bodyshop may still require a manifest unless an exemption has been obtained by the hauler from the state in writing. Some waste haulers have already obtained this exemption and are allowed to issue a receipt for the pickup of waste thinner. Lastly under this law, generators of waste oil must certify to the transporter that the oil has PCB's below 5 ppm. If the oil is later found to be more than 5 ppm PCB's, then the adversely affected party, i.e., the hauler or the TSDF, can claim damages equal to three times costs incurred for the disposal of oil with high levels of PCB. This may not be a big deal as dealers can easily test each batch of oil at the time of each pickup if they suspect any contamination. Normally, this has not been an area of concern. *(Source, Senate Bill 606, O'Connell)*

Note: Beginning July 1, 2000 DTSC will charge a statuary fee of $20.00 per incorrectly completed manifest.

Forklift Training

OSHA has toughened-up training requirements for forklift operators. As of July 15, 2000, dealerships who use forklifts (or power industrial trucks) must be able to show that they have evaluated and provided training to all forklift operators. Documentation on training must state the name of the operator, the date of training, statement that the employee was trained and evaluated as required, and the identity of persons providing

the training and evaluation. Employees hired after July 15, 2000, must be trained prior to driving the truck.

The training must consist of a combination of formal instruction (lectures/videos) and hands-on training (exercises performed by trainee upon instructor's directions) in proper vehicle operation, equipment inspection and maintenance, precautions and warnings, and information on hazards that are unique to the employee's work place. An example would be to avoid using an internal combustion type forklift in closed shops with little ventilation. A list of training companies (schools) is available from our office. Training companies can also be located on the web or yellow pages.

Some dealerships have elected to do this training in-house and have purchased a complete packaged training program. This type of training is acceptable if the trainer has knowledge, training, and experience to train operators and evaluate their competence. There are several nationally recognized companies selling the pre-packaged program. A list of these companies is also available from our company.

Refresher training is also required under the new law. The refresher must be conducted at least every three years, or more frequently if there is a demonstrated need for it. "Demonstrated need" means a near miss incident or an accident, assignment to a different truck, changes in the workplace that affect the safe operation of the truck, or an operator that has been observed to be operating the truck in an unsafe manner. The dealership must document the refresher training for the employees as well.

(Note: A brief article on this topic appeared in our May 1999 newsletter notifying the dealerships to provide forklift training).

Reporting Work Connected Fatalities and Serious Injuries

OSHA has made some administrative changes to the reporting procedures for employers when a serious injury or fatality occurs that is work connected. Serious injury is defined as hospitalization for more than 24 hours beyond observation or loss of a body part or permanent disfigurement. The fact that local prosecutorial agencies may follow up with criminal charges against the employer and the managers, the employer is advised to contact their legal counsel before calling OSHA.

OSHA regulation requires that the information be relayed to the nearest OSHA office within 8 hours or sooner. There is no exemption for weekends or holidays! What happens if the injury occurs on a weekend? OSHA officials have informed CSI that the injury should be reported to the local office where an answering machine or service would be available and the information should be left even if the accident occurs over the weekend. CSI recommends the details of the regulations be discussed with all managers, even those who work on weekends.

The regulation for immediate reporting is found in §342 of Title 8 Chapter 3.2 of California Code of Regulations and is quoted as follows:

(a) Every employee shall report immediately by telephone or telegraph to the nearest District Office of the Division of Occupational Safety and Health any serious injury or illness, or death, of an employee occurring in a place of employment or in connection with any employment.

Immediately means as soon as practically possible but not longer than 8 hours, after the employer knows or with diligent inquiry would have known of the death of serious injury or illness. If the employer can demonstrate that exigent circumstances exist, the time frame for the report may be made no longer than 24 hours after the incident.

Serious injury or illness is defined in section 330(h), Title 8, California Administrative code.

(b) Whenever a state, county or local fire or police agency is called to an accident involving an employee covered by this part in which a serious injury, or death occurs, the nearest office of the Division of Occupational Safety and Health shall be notified by telephone immediately by the responding agency.

(c) When making such report, whether by telephone or telephone or telegraph, the reporting party shall include the following information, if available:

(1) Time and date of accident.

(2) Employer's name, address and telephone number.

(3) Name and job title, or badge number of person reporting the accident.
(4) Address of site of accident or event.
(5) Name of person to contact at site of accident.
(6) Name and address of injured employee(s).
(7) Nature of injury.
(8) Location where injured employee(s) was (were) moved to.
(9) List and identity of other law enforcement agencies present at the site of accident.
(10) Description of accident and whether the accident scene or instrumentality has been altered.

(d) The reporting in (a) and (b) above, is in addition to any other reports required by law and may be made by any person authorized by the employers, state, county, or local agencies to make such reports.

We note that federal regulations related to reporting requirements in terms of 8-hour limits are essentially similar. As noted earlier, detailed descriptions of the accident to OSHA may incriminate the dealership leading to a criminal indictment, and therefore the employer is well served by contacting their legal counsel before calling OSHA and being prepared for an OSHA investigation thereafter. Requesting OSHA inspector for a warrant in certain cases is a prudent policy for the dealership as well.

Should an Injury Be Recorded On the OSHA 200?

In our last newsletter, we had mentioned that first aid injuries should not be recorded on the OSHA Log 200. This has generated a few questions and here we provide further information to clarify this issue. Injuries requiring any of the following treatments are almost always recordable:

- Treatment of infection
- Application of antiseptics during the second or subsequent visit to medical personnel
- Treatment of second or third degree burn(s)
- Application of sutures (stitches)
- Application of butterfly adhesive dressing(s) or steri strip(s) in lieu of sutures
- Removal of foreign bodies embedded in eye
- Removal of foreign bodies from wound; if procedure is complicated because of depth of embedment, size, or location
- Use of prescription medications (except a single dose administered on first visit for minor injury or discomfort)
- Use of hot or cold soaking therapy during the second or subsequent visit to medical personnel
- Cutting away dead skin (surgical debridement)
- Application of heat therapy during second or subsequent visit to medical personnel
- Use of whirlpool bath therapy during second or subsequent visit to medical personnel
- Positive x-ray diagnosis (fractures, broken bones, etc.)
- Admission to a hospital or equivalent medical facility for treatment.

The following are generally considered first aid treatment and should not be recorded if the employee does not loose consciousness, have restriction of work or motion, or transfer to another job:

- Application of antiseptics during first visit to medical personnel
- Treatment of first degree burn(s)
- Application of bandage(s) during any visit to medical personnel
- Use of elastic bandage(s) during first visit to medical personnel
- Removal of foreign bodies not embedded in eye if only irrigation is required
- Removal of foreign bodies from wound; if procedure is uncomplicated, and is, for example, by tweezers or other simple technique
- Use of nonprescription medications and administration of single dose of prescription medication on first visit for minor injury or discomfort
- Soaking therapy on initial visit to medical personnel or removal of bandages by soaking
- Application of hot or cold compress(es) during first visit to medical personnel
- Application of ointments to abrasions to prevent drying or cracking
- Application of heat therapy during first visit to medical personnel
- Use of whirlpool bath therapy during first visit to medical personnel
- Negative x-ray diagnosis
- Observation of injury during visit to medical personnel.

Criminal Charges Against Employer

On April 28, 2000, US District Judge B. Lynn Winmill ordered Allan Elias, owner of

Evergreen Resources, in Pocatello, Idaho to pay an employee (who was seriously injured at work) and his family $6 million, $400,000 for site cleanup, and court costs. The judge also sentenced Elias to 17 years in prison.

The case stemmed when Elias ordered his employees to clean out a storage tank containing cyanide without evaluating the hazards and providing proper personal protective equipment. Noteworthy is the fact that Elias had been warned repeatedly by OSHA inspectors of the dangers of cyanide. The employees worked in jeans and T-shirts the first day and complained of being ill. The employer payed no heed to request from employees to test the tank environment and to provide personal protective equipment. On the second day, an employee collapsed in the tank and suffered brain damage when it took an hour for him to be rescued.

The case indicates the willingness of courts to hand down tough criminal and civil penalties when employers are lackadaisical or non-committal in providing a safe work environment for their employees. *(Source: Department of Justice News Release, May 2, 2000)*

Freon Smuggling

If you thought smuggling drugs was a lucrative business, then probably you have not heard of the $1 million dollar profit made by Allied Refrigeration, Inc. from smuggling freon into the United States.

The principals of Allied Refrigeration, Mr. Patel and Mr. Burrell were indicted and sentenced on May 24, 2000 for smuggling ozone depleting chlorofluorocarbons (freon) into the United States. As part of a plea bargain, Allied has also agreed to pay a $1 million fine. Allied had allegedly participated in a scheme to smuggle 18,000 30-LB cylinders of freon into the U.S. between 1993 and 1995. Freon is an ozone depleting chemical which when released into the atmosphere can increase the UV radiation to humans which in turn has been linked to skin cancer and cataracts.

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